

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | CG Docket No. 02-278 |
| Petition for Waiver of |) | |
| Papa Murphy's Holdings, Inc. and |) | |
| Papa Murphy's International LLC |) | |
| _____ |) | |

**PAPA MURPHY'S HOLDINGS, INC. AND PAPA MURPHY'S INTERNATIONAL
L.L.C.'S REQUEST FOR LEAVE TO FILE SUPPLEMENT TO RESPONSE TO
PETITION FOR RECONSIDERATION OF RETROACTIVE WAIVER TO PAPA
MURPHY'S HOLDINGS, INC. AND PAPA MURPHY'S INTERNATIONAL L.L.C.**

Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C (collectively, "Papa Murphy's"), through their undersigned counsel, respectfully request leave to file a supplement to their November 25, 2016 response to John Lennartson and Susan Shay Nohr's (collectively, "Petitioners") Petition for Reconsideration of Retroactive Waiver to Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C. Papa Murphy's seeks leave solely to correct the record regarding the evidence Petitioners are themselves seeking to submit as supplemental authority.

I. There is good reason to grant leave to allow Papa Murphy's to file limited supplemental evidence addressing Petitioners' newly offered evidence.

Under Section 1.106(f), "[n]o supplement or addition to a petition for reconsideration ... will be considered except upon leave granted upon a separate pleading for leave to file, which shall state the grounds therefor."¹ Here, Papa Murphy's seeks leave to file supplemental evidence regarding the untruthful statements Petitioners submitted to the Commission in their Supplement to Petition for Reconsideration of Retroactive Waiver to Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C. (the "Supplement"). Petitioners' Supplement made a serious misrepresentation of fact that can be easily corrected by examining screen shots that have not been "trimmed." Papa Murphy's does not wish to offer any evidence that is outside the scope of Petitioner's Supplement and files this petition solely to ensure the Commission has an accurate factual record.² Papa Murphy's was unaware before Petitioners filed their Supplement on December 16, 2016, that any supplement on its behalf would be required. Papa Murphy's thus did not delay in filing this brief.

¹ 47 C.F.R. § 1.106(f).

² As detailed in Papa Murphy's response to the Petition for Reconsideration of Retroactive Waiver to Papa Murphy's Holdings, Inc. and Papa Murphy's International L.L.C. (the "Petition"), pursuant to the Commission's prior orders, a detailed factual finding regarding Papa Murphy's confusion is not necessary to find that there is good cause for a waiver in this instance. However, should the Commission wish to examine the underlying facts, Papa Murphy's seeks leave to show the "evidence" on which Petitioners rely is wholly misleading.

II. Petitioners seek to offer evidence that is grossly misleading, and Papa Murphy's supplemental evidence corrects the record.

On November 14, 2016, Petitioners filed their Petition seeking reconsideration of the Commission's Order granting waivers to several entities, including Papa Murphy's, of the Commission's prior express written consent rules. Key to Petitioners' argument was their assertion that Papa Murphy's supposedly made no changes to its opt-in disclosures following the October 16, 2013 rule change, which Petitioners argued demonstrated ignorance, rather than confusion, regarding the new rules.³ To support this assertion, Petitioners submitted a declaration attaching several screenshots from an internet archiving website purportedly showing no additional disclosures on Papa Murphy's website.⁴

In response, Papa Murphy's highlighted Petitioners' failure to offer screenshots that captured *all content* on Papa Murphy's website and submitted the sworn declaration of Cynthia Hofmann, establishing that on or about October 16, 2013, Papa Murphy's revised the text message consent disclosures on its website, which revision included adding a disclosure that consent was not necessary to purchase goods or services. Undeterred, Petitioners have now submitted screenshots which they argue establish that Papa Murphy's made no changes to its website after October 2013.⁵

In providing hard-copy screenshots as the core of their Supplement, Petitioners either were grossly reckless or they intentionally fabricated evidence. Simply typing in the URL that appears at the bottom of Petitioners' proffered hard-copy screenshots reveals that both sets of screenshots were edited by Petitioners to omit Papa Murphy's additional disclosures. The complete screenshots, which Papa Murphy's seeks to submit through its supplement, show that, in accordance with Ms. Hofmann's declaration, Papa Murphy's revised its disclosures after October 2013 to include a consent disclosure.

³ Petition at 13.

⁴ Petition, Ex. 6.

⁵ Supplement at 2.

Given Petitioners' apparent attempt to mislead the Commission through submission of doctored evidence, Papa Murphy's respectfully requests leave to submit accurate, unedited hard-copy versions of these same screenshots.

Respectfully submitted this 21st day of December, 2016.

s/ Anthony Todaro

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